

E-FILED on 3/19/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TRUSTEES OF THE TRI-COUNTIES
WELFARE TRUST FUND and
PROFESSIONAL GROUP
ADMINISTRATORS, INC.,

Plaintiffs,

v.

BHARAT RAKSHAK, D.D.S., a professional
dental corporation, d/b/a RODEO DENTAL
GROUP; LYNNE SIMMS, D.D.S., a
professional corporation, d/b/a RODEO
DENTAL GROUP; JESSICA HUANTE,
individually; BHARAT RAKSHAK,
individually; LYNNE SIMMS, individually;
DOES 1 through 15 inclusive,

Defendants.

No. C-07-06332 RMW

ORDER DENYING MOTION TO REMAND

[Re Docket No. 7]


Plaintiffs Trustees of the Tri-Counties Welfare Trust Fund ("Tri-Counties") and Professional Group Administrators, Inc. ("PGA") (collectively, "plaintiffs") filed the instant complaint in Monterey County Superior Court on November 14, 2007, alleging, *inter alia*, that defendants attempted to fraudulently enroll defendant Jessica Huante (now Diaz) into the Tri-Counties health benefits plan. They assert five causes of action: (1) fraud/deceit; (2) negligent misrepresentation; (3) fraudulent concealment; (4) indemnity; and (5) negligence. Defendant Bharat Rakshak DDS

1 ("Rakshak") filed a notice of removal on December 13, 2007 removing this case to federal court.

2 Plaintiffs move to remand the matter to state court.

3 Plaintiffs' motion to remand is denied. This court has jurisdiction because it appears that the
4 resolution of plaintiffs' claims will require interpreting the terms of the collective bargaining
5 agreement pertaining to Huante's employment with Rodeo Dental to determine whether and when
6 Huante was eligible for health benefits. *See Lingle v. Norge Div. of Magic Chef, Inc.*, 486 U.S. 399,
7 412 (1988).

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10 DATED: 3/19/08



RONALD M. WHYTE
United States District Judge

United States District Court
For the Northern District of California

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9 Counsel are responsible for distributing copies of this document to co-counsel that have not
10 registered for e-filing under the court's CM/ECF program.

11
12 **Dated:** 3/19/08

/s/ MAG
Chambers of Judge Whyte

United States District Court
For the Northern District of California